

In the United States District Court For the District of New Mexico

Plaintiff: Benjamin W. Farley, pro se,

Case #<sup>o</sup>: 2:24-cv-01342-JB-KRS

Defendants: Alisha Talaya Lucero,

Dwayne Santistevan,

Harold W. Clarke,

Michelle Lujan Grisham

**FILED**

UNITED STATES DISTRICT COURT  
LAS CRUCES, NEW MEXICO

JUL 30 2021

MITCHELL R. ELFERS  
CLERK OF COURT

Plaintiff's Brief Regarding the outright  
lie Asserted by Rodney L. Gabaldon in this  
Action Regarding TCA's Notice Requirement.

Plaintiff, Benjamin W. Farley, Comes Now Before this Court, pro se,  
to Again, Bring to this Court's Attention, the outright lie Raised  
by Counsel for Defense, in this Action, to Seek Dismissal, as  
Follows:

I.) Plaintiff, A layman At law, who lacks "Meaningful Access to the legal  
information" Required to properly and meaningfully respond, will attempt  
once Again to Present Documents Available to counsel for Defendants,  
and Available to the Defendant's through: State of New Mexico's  
Risk Management Division.

A.) Defendant's ongoing and continuing obstruction to Meaningful  
Right of court access, Raised in case #<sup>o</sup>: 2:18-cv-181, but was  
Dismissed Due Obstruction Raised in case #<sup>o</sup>: 2:18-cv-181.



1.) Civil Action, Case No. 2:18-cr-181, was Filed, in part, due to "legal decision" of Lea County Correctional Facility employee, Mr. D. Burris that "Notice of claim" documents, pursuant to N.M.S.A. 1978, § 41-4-4(A) "Are not legal Documents."

a.) In an Egregious Miscarriage of Justice, the United States District court, in Case No. 2:18-cr-181, allowed Defendants to Remove Right of court Access by their Removal of means and ability to exhaust grievance procedure altogether, and Allowed Defendants to Remove ability to Meet the "TCA" Requirement of Notice.

II) This Petitioner can Prove by Documents, Provided by the New Mexico Risk Management Division, that he has complied with the TCA Requirement, A Large number of times.

A.) This Petitioner submitted an "Inspection of Public Records Act" Request, to The State of New Mexico Risk Management Division; and Received A large number of Documentary Evidence of Multiple Notice of claims on Record.

1.) Case No. 2:20-cv-01342-JB-KRS, Document: 6, Filed: 12 Jan. 2021, Page: 17 of 126, and Page: 18 of 126 is one "Notice of claim", Proving Counsel for Defence is outright lying to this court, in it's motion to Dismiss.



a.) Notice of claim, Dated: 03 Jan. 2018, Pursuant to § 41-4-16, clearly states "The Loss/injury occurred on: 15 Dec. 2017, Asserting the 104<sup>th</sup> count of Extorting Funds under color of N.M. state law

2.) Case #<sup>2</sup>: 2:20-cv-01342-JB-KRS, Document: 6, filed: 12 Jan. 2021, Page: 19 of 126, and Page: 20 of 126, also Page: 21 of 126, is yet another "Notice of claim" pursuant to § 41-4-16, N.M.S.A. (1978), filed with New Mexico Risk Management Division.

a.) Notice of claim, Dated: 29 Feb. 2018, Pursuant to: § 41-4-16, N.M.S.A. (1978), clearly states "The loss/injury occurred on or about, \_\_\_\_\_ December 2017, and is ongoing & continuing, At The Lea County Correctional Facility

3.) Case #<sup>2</sup>: 2:20-cv-01342-JB-KRS, Document: 6, filed: 12 Jan. 2021, Page: 25 of 126, Page: 26 of 126, and Page: 27 of 126, is again, another "notice of claim" Pursuant to: § 41-4-16, on record with state of New Mexico Risk Management Division.

4.) Case #<sup>2</sup>: 2:20-cv-01342-JB-KRS, Document: 6, filed: 12 Jan. 2021, Page: 28 of 126, Page: 29 of 126, Page: 30 of 126, Page: 31 of 126, Page: 32 of 126, and Page: 33 of 126, is Another "notice of claim" filed with, and on Record with State of New Mexico Risk Management Division.



- 5.) Case  $\#$ : 2:24-cv-41342-JB-KRS, Document: 6, filed: 12 Jan. 2421, Page: 34 of 126, Page: 35 of 126, and Page: 36 of 126, is Yet Another "notice of claim", on Record with New Mexico Risk Management Division Pursuant to  $\S$  41-4-16, N.M.S.A. (1978).
- 6.) Case  $\#$ : 2:24-cv-41342-JB-KRS, Document: 6, filed: 12 Jan. 2421, Page: 37 of 126, Page: 38 of 126, Page: 39 of 126, Page: 40 of 126, and Page: 41 of 126, is another "notice of claim" on Record with New Mexico Risk Management Division.
- 7.) Case  $\#$ : 2:24-cv-41342-JB-KRS, Document: 6, filed: 12 Jan. 2421, Page: 42 of 126, through Page: 45 of 126 is another "notice of claim", that is also on record with New Mexico Risk Management Division.
- 8.) As Found at: case  $\#$ : 2:24-cv-41342-JB-KRS, Document: 6, filed: 12 Jan. 2421, Page: 42 of 126, through Page: 45 of 126, is a "notice of claim" on Record with State of New Mexico Risk Management Division, Placed into institutional mailbox on 22 June, 2424.
- 9.) Case  $\#$ : 2:24-cv-41342-JB-KRS, Document: 6, filed: 12 Jan. 2421, Page: 122 of 126, through Page: 125 of 126, is again, Another "notice of claim", on file with State of New Mexico Pursuant to:  $\S$  41-4-16, N.M.S.A., Proving Counsel for Defendant's is outright lying to this court.
- 9.) Exhibit  $\#$ : 41 Mar. 2421-CVR-142, A 22-Page Document, A "notice of claim", Placed into the institutional mailbox at L.C.C.F./Geo Group,



inc., on the 1<sup>st</sup> March 2021, to be mailed to the State of New Mexico Risk Management Division Pursuant to: § 41-4-16, N.M.S.A. (1978).

a.) The "notice of claim" Attached hereto, as Exhibit: 01 Mar. 2021-CVR-142, is the Documentary Evidence that Counsel for Defendants is lying to this court, in his motion to dismiss.

i.)) This Plaintiff, a layman at law, cannot meet the stringent standards an attorney can; in part, Because he is not trained in the law; and in part, Because Defendant's ongoing and continuing obstructions to Right of court Access. See: *Fawley v. Geo Group, Inc., et. al.*, No. 2:19-cv-04479.

b.) The "notice of claim" Attached hereto, as Exhibit: 01 Mar. 2021-CVR-142; was drafted "with Assistance" of someone who is not "hearing Disabled", as this Plaintiff, to ensure it explicitly met the requirements Counsel for Defendants untruthfully asserts this Plaintiff did not.

i.)) This Document, Exhibit: 01 Mar. 2021-CVR-142, is a "Form", that Mr. Fawley drafted, "with Assistance", to file each month he exhausted Grievance Procedure; therefore, there are Multiple "notice of claims" filed with state of New Mexico Risk Management Division, that meet the requirements of "notice" under "TCA".



B.) Document, Presented to this court, here, As Exhibit:  $\Phi$ 1 Mar. 2021-CVR-142, Establishes by Documentary Evidence that Attorney, Rodney L. Gabaldón is Asserting False and Untruthful information before this court, with deliberate intent to Mislead this court.

1.) Attorney, Rodney L. Gabaldón, could have simply checked with the State of New Mexico Risk Management Division, and in so doing, easily discovered his claim and Assertion, is False and untruthful; so such should raise to level of Fraud on the court with deliberate intent to present False and untruthful information, prejudicing Plaintiff.

2.) Defendant's Assert they are "taking Funds" without due process of law as a second, Retroactive criminal penalty added to Plea Agreement Years After Plea Agreement accepted by court; to extinguish at minimum, Ten (10) constitutional clauses to Render Mr. Farley's imprisonment in violation of U.S. Constitution & laws.

C.) The Exact Facts, issues, Documents, and Questions of law Raised in case  $\text{No. } 2:20\text{-cv-}\Phi 1236$ , are also raised in this, case  $\text{No. } 2:20\text{-cv-}\Phi 1342\text{-JB-KRS}$ , and case  $\text{No. } D-101\text{-cv-}2021\text{-}\Phi 4721$ , case  $\text{No. } CL21-196\text{-}\Phi 4$ .

1.) Any Decision this Court renders in this Action, will



III.) As Asserted by Attorney, Rodney L. Gabaldón, this complaint requires Potential plaintiffs to give notice by written "notice of claim", Pursuant to: ("TCA") (NMSA 1978, §41-4-1 et seq.), within 90-days.

A.) Petitioner And State of New Mexico Risk Management Division, have Documentary Evidence Attorney, Rodney L. Gabaldón, on File to establish his Assertion that Mr. Fawley Failed to file "TCA", pursuant to N.M.S.A. 1978, §41-4-1, is an outright lie. See: Exhibit: 01 Mar. 2021-CVR-142.

1.) "notice of claim", attached hereto, as Exhibit: 01 Mar. 2021-CVR-142, establishes Mr. Fawley, Pursuant to (TCA) (NMSA 1978, §41-4-1) was filed on: 01 March 2021, under the Prison mailbox Rule; and is a "written notice", to which multiple such "notice of claim" documents are on file with state of New Mexico Risk Management Division.

Therefore, Counsel for Defendant's is Asking this court to Dismiss this Action based only upon his "Fraud on this court".

This Petitioner Submits one document that establishes Fact, Counsel's Attorney has so Presented False & untruthful information, with the intent of causing Dismissal by Fraud; As Attorney for Defendant's could easily find The "TCA" notice of claim documents on file with state As he Falsely, by outright lie, claims are grounds to dismiss.



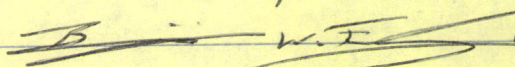
Thereby, Mr. Fawley Presents Exhibit: 41 mar. 2421-cvR-142, to Establish by Documentary Evidence that Mr. Fawley did so Give notice pursuant To ("TCA") (H.A.S.A. 1978, § 41-4-1), Establishing Fact Attorney, for Defendants, is deliberately presenting False and untruthful information to this court to get this court to dismiss based upon this outright lie.

Mr. Fawley, Not an Attorney, can only call the outright, deliberate lie, an "outright deliberate lie", as he can find no other way to put into words that counsel for defendant's is lying to this court, and counsel for defendants could easily discover the "notice of claims" his is lying about by simply asking the State of New Mexico Risk Management Division for the Documents he Falsely and untruthfully Asserts are not on file.

This can only be what is known as "Fraud on the Court", as Counsel is Fully Aware the Documents he untruthfully claims were not filed, are pursuant to law he cites, to be filed with the State of New Mexico Risk Management Division.

So, if this court holds this hearing, Mr. Fawley will demand this court to issue court order For State of New Mexico Risk Management Division to produce the Documents on File, that counsel for defense is lying about Directly to the court.

Respectfully submitted,

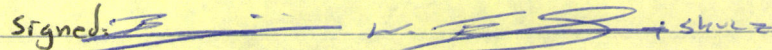
 Skulz

Benjamin W. Fawley, Dated: 12 July 2021



## Verification/Declaration

I, Benjamin W. Fawley, Pursuant to 28 U.S.C. § 1746, hereby Asserts the foregoing Facts, information, Assertions, Statements, and Accusations Are true And Correct Pursuant to Documentary Evidence of Exhibits Attached to this Document, under the penalty of Perjury as signed and Dated here:

Signed:  skuz

Printed: Benjamin W. Fawley

Dated: 12 July 2021 @ 11:03/pm

## Certificate of Service

I, Benjamin W. Fawley, hereby asserts that all Ten (10) pages of this Document, and the 62 Pages of Exhibits (The Documents proving Counsel for Defendant's is lying to this court), was placed into the institutional mailbox at U.C.C.F. / Geo Group, Inc, to be mailed by first-class mail pursuant to the prison mailbox rule to the following:

(1) Counsel for: Alisha Tafaia Lucero, Harold W. Clarke, and Michelle Lujan Grisham; Attorney: Rodney L. Gabaldón.

Law office of: Walsh, Gallegos, Treviño, Kyle, and Robinson, P.C.

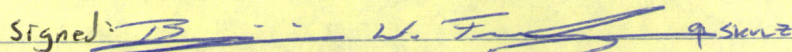
500 Marquette, N.W., Suite: 1310, Albuquerque, N.M. 87102

(2) Counsel for: Geo Group, Inc, and Dwayne Santistevan, Attorney, Michael S. Jahner,

Law office of: YLAW Attorneys, P.C.

4908 Alameda Boulevard, N.E., Albuquerque, N.M. 87113-1736

on the 22 day of July, 2021.

Signed:  skuz

Printed: Benjamin W. Fawley

Dated: 21 July 2021



Benjamin W. Farley, Jr. 69718, Jr. 561745  
Lea County Correctional Facility  
6900 West Miller Drive  
Hobbs, New Mexico 88244

Legal Mail

Case No. 2:20-cv-01342-JB-KRS

United States District Court  
In the District of New Mexico  
Office of the Clerk of Court  
100 North Church Street, Suite 200  
Las Cruces, New Mexico 88001

RECEIVED  
UNITED STATES DISTRICT COURT  
LAS CRUCES, NEW MEXICO  
JUL 30 2021  
MITCHELL R. ELLERS  
CLERK OF COURT

07/27/21  
JUL 27 2021  
JUL 27 2021  
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